IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2246 OF 2006

Between**:**

Vemulakonda Damayanthi … Petitioner

Versus

1. The Municipal Corporation,

represented by its Commissioner,

Kakinada, East Godavari district.

2. The Municipal Corporation,

represented by its Town Planning Officer,

Kakinada, East Godavari district. … Respondents

Counsel for the Petitioner: Mr.N.V.Anantha Krishna

Counsel for the Respondents: Mr.S.Nageswara Reddy

O R D E R :

This writ petition is filed to declare the action of the respondents in widening the roads by demolishing the petitioner's building no.27-4-15, Zavahar street, Kakinada, without any notification, without payment of any compensation and without initiating any action under the provisions of Section 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 or under the provisions of the Land Acquisition Act or by

private negotiations as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to demolish the buildings of the petitioner for the purpose of the road widening.

It is stated that the petitioner is the owner and possessor of the building bearing Door No.27-4-15, Temple street, Kakinada, East Godavari district. Originally the said building belonged to her husband, late Sri Vemulakonda Srihari Rao and after his death the property devolved on her and on her four sons; namely, Sri Rama Rao, Sri V.Ramana Murthy, Sri V.Adiseshu and V.Gayatri Srinivasa Satyanarayana, who became the joint owners of the said building. The erstwhile Kakinada Municipality was recently upgraded as a Corporation. The respondents with a view to ease the traffic congestion and thereby ensure free flow of traffic have taken up the job of road widening on all the main roads of Kakinada.

It is stated that at the instance of the first respondent, the second respondent has got the markings made on all the buildings and structures on either side of the roads popularly known as main road, Raja Ram Mohan Roy Road, Jawahar Street (temple street) Cinema Street etc., on the main road demarcation was done to an extent of 15 to 17 feet on either side and on other roads it was about 10 feet on either side.

The main grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish her building and they are trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and

without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case, the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess her without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

FEBRUARY 7th, 2005. ----------

l s L. V. ESWARAIAH, J.